

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DARLYN HARRIS MOORE, et al,)	
)	
Plaintiffs,)	
vs.)	Case No. 4:19CV1956RWS
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

**DEFENDANT UNITED STATES OF AMERICA’S RESPONSE TO
PLAINTIFFS’ MOTION TO ENFORCE SETTLEMENT**

COMES NOW Defendant, United States of America, by and through its attorneys, Saylor A. Fleming, United States Attorney for the Eastern District of Missouri and Nicholas P. Llewellyn, Assistant United States Attorney for said District, and for its Response to Plaintiffs’ Motion to Enforce Settlement states as follows:

1. The parties reached an oral settlement on or about June 23, 2021, which was fully executed on July 13, 2021.
2. The Stipulation for Compromise Settlement and Release of Federal Tort Claims Act Claims Pursuant to 28 U.S.C. §2677 (“Stipulation”) signed by the parties makes clear, at paragraph 5(a), that the settlement is subject to the approval of the “Attorney General or the Attorney General’s designee.” *See* 28 C.F.R. § 0.160(a)(3); 28 C.F.R. § 0.161(b); 28 C.F.R. § 0.162.
3. At paragraph 4(b), the Stipulation states that “[t]he parties must agree to the terms, conditions and requirements of this Stipulation and the Reversionary Trust **before** the United States Attorney’s Office will seek settlement authority from the Attorney General or the Attorney General’s designee.” [emphasis added] Paragraph 4(d) of the Stipulation states that “Plaintiff

must obtain, at their expense, approval of the settlement by a court of competent jurisdiction on behalf of [B.J.H.]...Plaintiffs must obtain such court Order **before** the United States Attorney's Office will seek settlement authority from the Attorney General or the Attorney General's designee." [emphasis added]

4. The Court approved the settlement on behalf of B.J.H. on July 15, 2021. [Doc. 50]

5. The United States Attorney's Office, after court approval of the settlement on behalf of the minor, then sought settlement authority of the Attorney General's designee, which authority was granted on August 25, 2021.

6. After receiving settlement authority, the United States Attorney's Office, again in accordance with the Stipulation, submitted a request to the Department of Health and Human Services (HHS) to process payment of the settlement.

WHEREFORE, Defendant United States of America respectfully requests that the Motion to Enforce Settlement be denied as moot as the United States is not in violation of the terms of the Stipulation and there is nothing to enforce.

Respectfully submitted,

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/s/ Nicholas P. Llewellyn

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2021, the foregoing *Response to Plaintiffs' Motion to Enforce Settlement* was filed electronically with the Clerk of the Court to be served upon the following:

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Attorney for Plaintiff

/s/ Nicholas P. Llewellyn
Nicholas P. Llewellyn